THE DEPUTY CHAIRMAN: There is no problem. It is your problem. I think you get up without. (*Interruptions*). I am not allowing.

SHRI G. SWAMINATHAN (Tamil Nadu): Madam, she is asking the Chair, "What is the problem?".

THE DEPUTY CHAIRMAN: Let the Minister first answer. I have no problem.

SHRI K. P. SINGH DEO: Madam, there has been haphazard growth of cable television in this country. This Bill seeks to regulate all those haphazard things and bring, throughout the country, a uniform policy. What the hon. Member was saying may be true. Maybe some people are doing it illegally. The entire thing has to be looked at in its totality and that is why we are bringing this Bill so that the haphazard growth which can have dangerous implications from the cultural social and political angles, can be looked into.

THE DEPUTY CHAIRMAN: The question is:

> "That leave be granted to introduce a Bill to regulate the operation of cable television networks in the country and for matters connected therewith or incidential thereto."

The motion was adopted.

SHRI K. P. SINGH DEO: Madam, I introduce the Bill.

RE. POSTPONEMENT OF ELECTIONS BY THE CHIEF ELECTION COMMISSIONER

THE DEPUTY CHAIRMAN: Mr. Subramanian Swamy.

SHRI SUBRAMANIAN SWAMY (Uttar Pradesh): Thank you, Madam Deputy Chairman. This is a matter of grave importance. (*Interruptions*).

THE DEPUTY CHAIRMAN: The Chairman has permitted him.

SHRI SOMAPPA R. BOMMAI (Orissa): Madam, let him speak as the last because he is speaking on behalf of the Government.

SHRI SUBRAMANIAN SWAMY: I am here speaking as a Member of Parliament. Mr. Bommai used to speak on behalf of the... (*Interruptions*)... people. I am speaking on my own behalf. (*Interruptions*).

THE DEPUTY CHAIRMAN: The Chairman has permitted him. Let him speak.

SHRI MENTAY PADMANABHAM (Andhra Pradesh): Madam, Mr. Swamy is speaking as a member of the 'Kitchen Cabinet'.

THE DEPUTY CHAIRMAN: Let him speak.

SHRI SUBRAMANIAN SWAMY: Madam Deputy Chairman, this House should seriously consider the Constitutional question that has suddenly been brought to the notice of the whole country through a Press order.

SHRI S. JAIPAL REDDY (Andhra Pradesh): Explain why 'suddenly'.

SHRI SUBRAMANIAN SWAMY: I am coming to that. (*Interruptions*). Today's papers have banner headlines to say that Mr. Seshan has cancelled all elections, including... (*Interruptions*). Yes, right. He has postponed all elections, including Rajya Sabha elections. Now, there are two important issues connected with this matter. It is unprecedented, no doubt. But these two issues should be separated. One is the Constitutional point that has been raised by Mr. Seshan and the second is the action he has taken to focus on his grievance or what he perceives as the curbing of his Constitutional rights and duties. The questions therefore, should be discussed separately.

As far as the Constitutional point is concerned Mr. Seshan has been raising it through correspondence with the Government. It is for the Government to explain why despite this voluminous correspondence, they were not able to satisfactorily answer the questions raised by Mr. Seshan. In fact, the Cabinet Secretary's letter which has been released by Mr. Seshan in his press note, merely reaffirms the position. It says that the

Government of India and the State Governments respectively have the sole right to decide which officers should be made available for the superintendence of elections. Mr. Seshan's point is, in order to exercise independence and purity in election, it is the Election Commission which can decide in its judgment who are the independent officers who can carry on electoral duties. Now, the point is stated very clearly. He says that it is solely for the Election Commisson to decide... (*Interruptions*).

SHRI S. JAIPAL REDDY: Madam, we are not in possession of the document from which he is reading. We would like to know as to what the document is. Will it be placed on the Table of the House?

THE DEPUTY CHAIRMAN: Yes, you can answer. Mr. Subramanian Swamy, I will allow you to answer. What is the document from which you are reading?

SHRI SUBRAMANIAN SWAMY: Madam, there is no document. I am just reading from the press note made available to all the newspaper-men. I do my homework... (*Interruptions*)

SHRI S. JAIPAL REDDY: Madam, Dr. Swamy is not a newsper-man. He is speaking here as a Member of Parliament. He has many incarnations outside the House. Inside the House he has only one incarnation and that is a Member of Parliament.

SHRI SUBRAMANIAN SWAMY: I am quoting from the Constitution. Is that a secret document for Mr. Jaipal Reddy? I am quoting article 324 and he is now saying which document I am reading from. I know that Janata Dal does not know any Constitution. But I didn't show their ignorance here.

THE DEPUTY CHAIRMAN: Are you referring to the Constitution?

SHRI SUBRAMANIAN SWAMY: Yes, Madam. (*Interruptions*).

SHRI G. SWAMINATHAN (Tamil Nadu): Madam, I am on a point of order.

THE DEPUTY CHAIRMAN: What is your point of order?

SHRI G. SWAMINATHAN: I want to know whether Mr. Subramanian Swamy is reading any document as supplied by the Chief Election Commissioner. (*Interruptions*). We want to know whether Mr. Subramanian Swamy is reading any document as supplied by Mr. Seshan, the Chief Election Commissioner.

SHRI SUBRAMANIAN SWAMY: Yes, I am saying that I am reading something which has not appeared in the newspapers today. I am presently reading an article of the Constitution. (*Interruptions*).

SHRI YASHWANT SINHA (Bihar): Madam, I am on a point of order. Madam, my point of order is not related to this. My point of order is: How would you like to regulate this matter? This issue which has been raised, in what way are you going to conduct this? This is the question that I am asking because all of us have given it in writing.

THE DEPUTY CHAIRMAN: The Secretariat received so many requests from Members of Parliament and the Secretariat put their time when they were received by them. When these requests were brought before the Chairman, the Chairman said, yes, this matter can be discussed after Question Hour because the requests were to suspend the Question Hour. Then the Chairman said, "Let us have the Question Hour", and this matter could be raised after Question Hour." But no procedure was decided in the sense whether it is Calling Attention, Short-duration Discussion, in the form of a motion or anything like that. It is raised because the Members feel that it is a serious matter and it should be raised. That is why the Chairman has given the permission in his own right Now, in the same manner Mr. Subramanian Swamy is being allowed to speak. I have got a list and I will call according to the list. I mean, according to the time of their receipt—9.15, 9.45 and 10 o'clock.

SHRI YASHWANT SINHA: I just wanted to be clear about it.

SHRI PRAKASH YASHWANT AMBEDKAR (Nominated): Madam, I am on a point of order.

THE DEPUTY CHAIRMAN: What is your point of order?

SHRI PRAKASH YASHWANT AMBEDKAR: Madam, I would like to know whether the Government is going to reply to this discussion.

THE DEPUTY CHAIRMAN: That I don't know.

SHRI PRAKASH YASHWANT AMBEDKAR: That has to be decided.

THE DEPUTY CHAIRMAN: If it comes in the form of a motion—whether it is Short-duration Discussion or Calling Attention—there is a different procedure. For that the Government comes forward with a statement and replies in the end.

But here it is just being permitted. So if the Government wants to answer, ...(*Interruptions*)...

SHRI PRAKASH YASHWANT AMBEDKAR: Madam, you direct the Government to reply to it... (*Interruptions*)... Madam, you should direct the Government to reply to it.

THE DEPUTY CHAIRMAN: You can ask but I cannot force them because it, is their business.

(..*Interruptions*)...

SHRI YASHWANT SINHA: Madam, the matter has been considered important enough by the Chairman.

SHRI PRAKASH YASHWANT AMBEDKAR: When the Chairman has allowed it, it is the duty of the Government to reply to it.

SHRI G. SWAMINATHAN: Mrs. Margaret Alva is here. She can give a reply... (*Interruptions*)... I think, she has stood up. Yes, we want a reaction.

SHRI PRAKASH YASHWANT AMBEDKAR: And a reply to the controversies... (*Interruptions*)...

SHRI YASHWANT SINHA: Madam, that is the reason why I raised the issue. The Chairman has considered it important enough and you are going to permit all of us who have made a demand to raise this issue. Then the Government must be adequately represented in this House to be able to listen to what we have to say and react adequately. Now some body must say that on behalf of the Government. The Leader of the House is not here, the Minister of Law is not here. Nobody competent is here... (*Interruptions*)...

SHRI G. SWAMINATHAN: No, no; both of them are competent. Mrs. Alva is there.

SHRI YASHWANT SINHA: Unless somebody gets up from the Government and says he or she is competent to reply, what is the use of raising it?...(*Interruptions*)...

SHRI SUSHILKUMAR SAMBHAJIRAO SHINDE (Maharashtra): It is a collective responsibility. How is the hon. Member saying that there is no competent Minister here? It is a collective responsibility... (*Interruptions*)...

SHRI YASHWANT SINHA: It is not for you. Let a Member of the Government, let a Member of the Council of Minister, now, here get up and say, 'I am competent to respond to them"... (*Interruptions*)...

SHRI SUSHILKUMAR SAMBHAJIRAO SHINDE: See, it is the Cabinet Minister, it is the Minister of State, who is competent. Everybody is competent... (*Interruptions*)...

THE DEPUTY CHAIRMAN: Now let us go ahead. You are stopping it from the biginning only. Let Mr. Subramanian Swamy speak.

SHRI G. SWAMINATHAN: We want a reply. We want to hear her reaction ...(*Interruptions*)...

SHRI S. K. T. RAMACHANDRAN (Tamil Nadu): Madam, off and on he is making such remarks. It is our suggestion that he should be taken to task ...(*Interruptions*)... This is not fair. It is quite unbecoming of him... (*Inter-*

ruptions)... It is quite unbecoming of him. He had been a Finance Minister. Now he is the leader of a party... *(Interruptions)*...

THE DEPUTY CHAIRMAN: Yes, Mrs. Alva... *(Interruptions)*... Order, please.

THE MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS WITH ADDITIONAL CHARGE OF THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRIMATI MARGARET ALVA): Madam, even though Mr. Yashwant Sinha was very kind to say that no competent Minister was present in the House, I seek your permission to mention that the leaders were there in the Chairman's room this morning when this question of raising this issue was taken up with the Chairman and it was discussed in what form it should be taken up. It was finally agreed that the Chairman would give permission for this to be raised in the Zero Hour as a Zero Hour issue. It was not supposed to come up as a regular discussion. Anything that you would all want to mention or rather express your concern and views about, I should then convey to Government. We are also as much concerned as everybody else with what has happened there. We are going to face a constitutional crisis on various fronts and, therefore, I feel after whatever has been said, perhaps, the leaders of all the Parties should sit together with the Leader of the House, so that we will together decide in what form this issue should be sorted out, because it is ultimately going to affect the whole electoral process and the functioning of the electoral system. we, therefore, are as much concerned and as much involved as you are in finding an answer to the crisis which has been created. I will ask the Leader of the House... *(Interruptions)*...

THE DEPUTY CHAIRMAN: Now the Minister has answered.

SHRIMATI MARGARET ALVA: One minute. The Leader of the House is... *(Interruptions)*...

THE DEPUTY CHAIRMAN: Let the Minister answer. She is speaking on behalf of the Government.

SHRIMATI MARGARET ALVA: I will ask the Leader of the House to come and... *(Interruptions)*... An adjournment Motion which has been brought up. I shall certainly ask the Leader of the House to come here by the time you have finished speaking so that he can respond... *(Interruptions)*... So he can also come and... *(Interruptions)*...

SHRI INDER KUMAR GUJRAL (Bihar): Madam, point of order...

THE DEPUTY CHAIRMAN: Mr. Bhatia.

SHRI INDER KUMAR GUJRAL: Madam, I am raising a point of order.

THE DEPUTY CHAIRMAN: Yes. But he raised his hand first. I will call you. He raised the hand. I will call you. I will call you.

SHRI INDER KUMAR GUJRAL: I asked first.

THE DEPUTY CHAIRMAN: No, no; he was raising his hand. He did not stand but he raised. And I can say that I will allow you also.

SHRI MADAN BHATIA (Nominated): Madam, I am submitting that at present I have no information but I apprehend that this matter may have been raised or is likely to be raised in the Supreme Court, by itself today. The reason is... *(Interruptions)*... Please listen to me... *(Interruptions)*... Please listen to me... *(Interruptions)*.

THE DEPUTY CHAIRMAN: Point of information... *(Interruptions)*...

SHRI M. A. BABY (Kerala): This is his apprehension. This is not a point of order... *(Interruptions)*...

SHRI V. GOPALSAMY (Tamil Nadu): What is the point of order?

SHRI MADAN BHATIA: The Bombay Hgih Court has granted a stay to Mr. Sharad Pawar. I believe... *(Interruptions)*...

THE DEPUTY CHAIRMAN: One minute. He is allowed to make his point. (*Interruptions*) ...

SHRI MADAN BHATIA: ... that the order of the Bombay High Court may come up for consideration before the Supreme Court today itself. If the Supreme Court takes cognizance of this matter then I respectfully submit that the matter will become *sub judice*. ... (*Inerruptions*).

SHRI V. GOPALSAMY: What a foolish argument! (*Interruptions*)...

SHRI MENTAY PADMANABHAM: At present this House is discussing the matter. This House is competent to dicuss it. (*Interruptions*) ...

THE DEPUTY CHAIRMAN: Please. (*Interruptions*) ... Please take your seats. (*Interruptions*) ... Please take your seats. Now the Chairman has given the permission and the process has started. I am not in a position to stop it. (*Interruptions*) ... I am not in a position to stop it. Gujral Sahib. (*Interruptions*) ...

SHRI INDER KUMAR GUJRAL: Madam, I am on a point of order. (*Interruptions*)... Madam, I am on a point of order. (*Interruptions*) ... She has permitted me to raise a point of order. (*Interruptions*) ...

THE DEPUTY CHAIRMAN: I have allowed Mr. Gujral, please. (*Interruptions*) ...

SHRI SUBRAMANIAN SWAMY: Mr. Gujral is raising an extra point of order. (*Interruptions*) ...

THE DEPUTY CHAIRMAN: There is no question of yielding. It is a point of order. I have allowed him (*Interruptions*)... He is not requesting you. He is requesting me. (*Interruptions*)... You please sit down.

SHRI INDER KUMAR GUJRAL: Madam, my submission to you is that the hon. Minister of State for Parliamentary Affairs has told us and conveyed to us that the Government was feeling concerned about it. It is a rather ridiculous situation that the enire process has been questioned and brought into disrepute by a person who is not considered to be normal. But having done that ... (*Interruptions*)...

SHRI SUBRAMANIAN SWAMY: Madam, I am on a point of order. (*Interruptions*)...

SHRI INDER KUMAR GUJRAL: ...the hon. Minister should have told us that the Government would make a *suo motu* statement and tell us what he Government is thinking of it. The Government should make a *suo motu* statement rather than just make us wait.

THE DEPUTY CHAIRMAN: Mr. Subramanian Swamy.

SHRI SUBRAMANIAN SWAMY: This leads us to another point of order about the sanity of some people whose wives have filed their petitions in the Allahabad High Court about their sanity... (*Interruptions*)... I am not going into all that. Madam, the point I raised is a narrow point. The Constitution says... (*Interruptions*)...

THE DEPUTY CHAIRMAN: No, let me listen to him... (*Interruptions*)...

SHRI S. JAIPAL REDDY: Madam, he is referring to the canard of a petition filed in Allahabad. I would like to state that it is totally false and Dr. Swamy is known for spreading falsehoods. (*Interruptions*)...

THE DEPUTY CHAIRMAN: All right, Mr. Swamy.

SHRI SUBRAMANIAN SWAMY: Mr. Jaipal Reddy is the oracle of truth. (*Interruptions*)...

THE DEPUTY CHAIRMAN: If you think that he is telling anything wrong on the floor of the House

you can have the privilege. All right, Mr. Swamy. (*Interruptions*).

SHRIMATI JAYANTHI NATARAJAN: Madam, I am on a point of order. (*Interruptions*)... Mr. Gujral has said something about the Election Commisioner... (*Interruptions*)... Can I raise a point of order? (*Interruptions*)...

THE DEPUTY CHAIRMAN: No, he said nothing. I am not allowing point of order after point of order. I am not giving any ruling on Mr. Gujral's observations. So, there is no question about it. (*Interruptions*)... Let me conduct this House in a proper order, please. (*Interruptions*)... Let us run this House properly, I request everybody Mr. Subramanian Swamy, please. (*Interruptions*)...

SHRIMATI JAYANTHI NATARAJAN: You allowed Mr. Gujral's point of order and not mine. (*Interruptions*)...

THE DEPUTY CHAIRMAN: Please. Mr. Swamy. (*Interruptions*)...

SHRIMATI JAYANTHI NATARAJAN: Madam, I am on a point of order. (*Interruptions*)... I want to raise a point of order. (*Interruptions*)...

THE DEPUTY CHAIRMAN: I am not allowing. (*Interruptions*)... I am not allowing and it is not going on record. (*Interruptions*)...

SHRIMATI JAYANTHI NATARAJAN:*

THE DEPUTY CHAIRMAN: You don't question the Chair. (*Interruptions*)...

SHRIMATI JAYANTHI NATARAJAN:*

*Not recorded.

SHRI SUBRAMANIAN SWAMY: The Constitution of India says... (*Interruptions*)...

उपसभापति : स्वामी जी, आप बोल रहे हैं, या शुड आई काल सिकन्दर बख्त ?

SHRIMATI JAYANTHI NATARAJAN: Please allow him. I want to get everybody... (*Interruptions*)...

SHRIMATI JAYANTHI NATARAJAN:*

THE DEPUTY CHAIRMAN: What are you saying? I have not allowed. (*Interruptions*)... You please go back to your seat. (*Interruptions*)... Go back to your seat. (*Interruptions*)... Just a minute, please. (*Interruption*)... Please sit down. Whatever Mr. Gujral has said. I am not taking any cognizance of it. I have not made any comment on it. He said something. (*Interruptions*)...

SHRIMATI JAYANTHI NATARAJAN: It is on record. (*Interruptions*)...

THE DEPUTY CHAIRMAN: Many things you are saying are also on record. I have not taken any cognisance of it. (*Interruptions*)...

SHRIMATI JAYANTHI NATARAJAN: Madam, I have raised a point of order.

THE DEPUTY CHAIRMAN: What is your point of order? Let me know pour point of order.

SHRIMATI JAYANTHI NATARAJAN: The point of order is that Mr. Gujaral referred to the Chief Election Commissioner as not being considered nomal I think... (*Interruptions*).

THE DEPUTY CHAIRMAN: It is his viewpoint. (*Interruptions*).

*Not recorded.

SHRIMATI JAYANTHI NATARAJAN: Please give your ruling on that. that. (*Interruptions*).

THE DEPUTY CHAIRMAN: It is his point of view. (*Interruptions*).

SHRI JAYANTHI NATARAJAN: JAN: I am sorry... (*Interruptions*). It is there in the record. (*Interruptions*).

THE DEPUTY CHAIRMAN: As I not take any notice of Mr. Gujral's point of order, I am not taking notice of your point of order. (*Interruptions*).

विपक्ष के नेता (श्री सिकन्दर बख्त) : जयंती नटराजन साहेब की उनके बारे में क्या राय हैं, यह भी बता दें (व्यवधान)

†[شری سکندر بخت : جیانتی نٹراجن صاحبہ کی انکے بارے میں کیا رائے ہے یہ بھی بتا دیں .. (مداخلت) ...

SHRI SUBRAMANIAN SWAMY: Madam, there are two points on this matter which have to be separated, the point on the Constitution... (*Interruptions*)... the point on the Constitution and the question of the action he has taken in cascelling or postponing all the elections. On the constitutional point, it is imperative on the Government to make a statement as to the position and explain it, because the press release issued by the Election Commission yesterday and carried in all the newspapers today which makes a reference to a large amount of correspondence which he has made public, clearly shows that the Government has not taken the Chief Election Commissioner's letters seriously to reply to it point by point. They have given a vague reply and have kept the matter pending. Therefore, it is an obligation on the Government to come and state as to why this point was not centrally dealt with because this point was centrally dealt with in the Constituent Assembly itself and in the Supreme Court judgements. Due to lack of time I will only make a reference to two questions. Article 324 (6) exactly says the following:

"The President, or the Governor of a State, shall when so requested by the Election Commission, make available to the Election Commission or to a Regional Commissioner such staff as may be necessary for ferred on the Election Commission ferred on the Election Commission by clause (1) "
(*Interruptions*)...

THE DEPUTY CHAIRMAN: Let us hear him. Let us have some patience to hear him. (*Interruptions*)...

SHRI CHATURANAN MISHRA (Bihar): Madam, I am on a point of order.

THE DEPUTY CHAIRMAN: What is your point of order?

SHRI CHATURANAN MISHRA: What Mr. Swamy has stated is not clear. Has the Election Commission got the right to suspend elections? The point... (*Interruptions*)...

SHRI SUBRAMANIAN SWAMY: Madam, I am on the first point. Before I come to the second point he

†]Transliteration in Arabic Script.

wants me to go to the second point. (*Interruptions*).

THE DEPUTY CHAIRMAN: He is going to deal with it in two ways. (*Interruptions*)...

SHRI CHATURANAN MISHRA: The Government should provide requisite staff and all other things. That is correct. (*Interruptions*).

SHRI SUBRAMANIAN SWAMY: That is not the Constitution. He has not understood the Constituion. (*Interruptions*).

SHRI CHATURANAN MISHRA: If you fully understand the Constitution, please let me know this. So far, the Election Commission has suspended only by-elections. Is he empowered to suspend general elections also?

SHRI G. SWAMINATHAN: It is only the President or the Governor who in consultation with the Election Commission... (*Interruptions*).

THE DEPUTY CHAIRMAN: Let Mr. Subramanian Swamy finish first. (*Interruptions*). Mr. Swamy, please continue.

SHRI SUBRAMANIAN SWAMY: He is trying to educate me on the Constitution. I am making my submission. I am not here to be educated. I have read the Constitution word by word which very clearly says a certain point. This is how the Election Commission has interpreted it. The Government is not given any authority by the Supreme Court ruling or the Constituent Assembly to say that the Election Commission does not have the right to select officers for election duty. They say that the Government's bland statement is "Whatever officers we provide, you have to accept. We will give you officers in numbers. Whether you think it is obective or not, that is not for you to decide." This is the central point which has to be thoroughly discussed in this House because the matter concerns the question of free fair elections. Madam, before I conclude his point and go to the second point, I would like to quote what Dr. Ambedkar had clearly stated in the Constitutent Assebmly. He said." ..Therefore, so far as the fundamental question is concerned that the election machinery should be outside the control of the executive Government, there has been no dispute. And what article 289 does is,—it subsequently became 324—it transfers the superintendence, direction and control of the preparation of the electoral rolls and of all elections to Parliament and the Legislatures of States to a body outside the executive to be called the Election Commission." Similarly, in a Supreme Court judgement in 1978, the Supreme court held that article 324 is a vast reserboir of power... (*Interruptions*).

SHRI SATYA PRAKASH MALAVIYA (Uttar Pradesh): Please name the case.

SHRI SUBRAMANIAN SWAMY: Mohinder Singh Gill vs. Chief Election Commissioner (AIR 1978 SC 851). Are you satisfied? It says: "Article 324 is a vast reservoir of power to act for the avowed purpose of, not divorced from, pushing forward a free and fair election with expedition. Article 324 in this

couched in wide terms...the framers of the Constitution took care to leaving scope for exercise of residuary power by the Commission in its own right and the Chief Election Commissioner has not to fold his hands and pray to God for divine inspiration to enable him to exercise his functions and to perform his duties or to look to any external authority for the grant of powers to deal with the situation. He must lawfully exercise his power independently, and see that election process is completed properly, in a free and fair manner.".

Since the Election Commission does not have a countrywide staff of its own. it has to rely on the executive for the providing of staff. Now what the Election Commission is saying is, "We shall select the staff for independence of elections. You shall not select. The Chief Minister shall not select. The Chief Secretary shall not select. The Government cannot select. We will select. We will give you the list and then you have to provide them.' This is a point which is of great importance for a free and fair election. We know that some officers are, very good officers but we also know as to how some officers dance according to the tunes of their political masters. So, if you have provided the election authority... (*Interruptions*)

SHRIMATI RENUKA CHOWDHURY (Andhra Pradesh): It happened in my State. When the Chief Minister was a candidate, he chose his own men.

SHRI SUBRAMANIAN SWAMY: So. the Election Commission is to be an independent election authority. And we know that the question of free and fair election has become a big question And there has been a great deal of involvement of the Government officials in trying to get a particular candidate of a particular party elected. So, the dispute whether this power should vest independently or not is something which has to be completely settled. And Mr. Seshan, as is obvious from the newspaper reports, has tried to solve this issue through correspondence and has failed. Now in order to settle this matter, he says. "I cannot conduct elections in a free and fair manner unless this point is settled once and for all." And he has chosen the step of postponing elections. Now has he the power to do so? Certainly, he has the power under the Representation of the People Act. But whether he has exercised it wisely is a question. That is a point of debate. That is something on which this House can have an opinion and, certainly, the courts will have an opinion. But, I would say that this is an important Constitutional question, and, in fact, in my opinion, the Government has failed to discharge its responsibility by not solving this point expeditiously and quickly. And, I think, this important point, perhaps, would not have come to the attention of the country and Parliament but for the drastic step that Mr. Seshan has taken in postponing of elections. Had he done it in any other way, perhaps, this country would not have taken notice of it. And you can see from the correspondence that has been exchanged between him, the Cabinet Secretary and the Prime Minister, the Prime Minister has told him on a number of occasions—according to the correspondence revealed in the newspapers—that he would have the matter sorted out. So, I would suggest that this important Constitutional point—if the Government is not able to accede to the Chief Election Commissioner's opinion

or interpretation—should be referred to the Supreme Court under article 143 on a reference and this matters should be settled, in fact, as quickly as possible so that elections can take place in a free and fair manner. This is the point that I wanted to make.

THE DEPUTY CHAIRMAN : Shri Sikander Bakht was also given permission by the Chairman to be the next speaker. I am permitting him to speak now.

SHRI SIKANDER BAKHT : This House is really concerned. If somebody is caught between two love affairs, he is absolutely entitled to choose which one to abandon and which one to keep.

सदर साहिबा, आज जो सवाल हमारे सामने हैं, उसके दो पहलू हैं—एक कानूनी हो सकता है जिस पर गौर करने की जरूरत है कि जो सिचुएशन पैदा हुई हैं चीफ इलेक्शन कमिश्नर के इस हुक्म के बाद वह एक भयानक सिचुएशन हैं, एक सीरियस कांस्टीट्यूशनल क्राइसिस पैदा हुई है। उसकी कानूनी तफसीलात क्या हें, अगर कानूनी तफसीलात जरूरी हें तो सबसे पहले मैं सरकार से मतालबा करूंगा कि जितनी भी कारेसपांडेंस उनके और चीफ इलेक्शन कमीशनर के दरमियान हुई हें, वह लाएं और यहां हाउस के सामने रखे उसको समझने के लिए। लेकिन मैं यह कहना चाहता हूं कि इस वक्त की जो सिचुएशन हैं, इस वक्त की सिचुएशन बेहद सीरियस हैं और अनफॉर्चुनेटली एक मल्टी-क्राइसिस सिचुएशन में एक और सीरियस सिचुएशन का इजाफा हुआ हें। सदर साहिबा, इस वक्त ताज्जुब सबसे बड़ा इस बात का है कि सरकार खामोश है। शरद पवार साहब इमीडिएटली रिएक्ट कर सकते हैं, हाईकोर्ट में जा सकते थे और उन्होंने कुछ किया, लेकिन हमें यह मालूम नहीं कि इतनी सीरियस सिचुएशन के सिलसिले में गवर्नमेंट ने किस ढंग से रिएक्ट किया हैं ताकि यह मुल्क इस क्राइसिस के बाहर निकल सके ?

सदर साहिबा, इस वक्त इलेक्शन कमिकमिश्नर साहब के एहकमात की वजूहात बहुत ज्यादा समझ में नहीं आ रही हैं। इलेक्शन कमिश्नर साहब ने एक तारीख मुकर्रर की हें। 18 दिसम्बर, की उस 18 दिसम्बर की तारीख की सेक्टिटी क्या हो सकती है, वह समझ नहीं आ रही है ? अब रूमर्स है, बेअंदाजा रूमर्स है, किस-किस का नाम लिया जा रहा है, किस-किस को बचाने या किस-किस को डुबोने के लिए क्या-क्या किया जा रहा हें, मैं उन नामों को दोहराना नहीं चाहता हूं, लेकिन मैं यह जानना चाहता हूं कि एक सिचुएशन इस मुल्क के सामने यह है कि 4 स्टेट्स में इलेक्शंस नवम्बर में ड्यू हैं, उन इलेक्शंस का क्या होने वाला है ? अगर यह 18 दिसम्बर की तारीख जिस तरीके से हम पर लादी गयी हें, वह चलती रही तो कांस्टीट्यूशन रिक्वारसेंट्स पूरी करने के लिए यह सरकार किस तरफ, कौनसा रूख अख्तियार करना चाहती हैं ?

हमारे एक मोहतरम दोस्त ने अभी कहा, मुझे ताज्जुब हुआ कि अगर सरकार इरादा कर रही है कि वह सुप्रीम कोर्ट में जाए और अगर यह चली गयी तो यह मामला सब्जुडिस है। अगर वह चली गयी, कब चली गयी, कब चली जाएगी, वह चली जाने के बाद सब्जुडिस होगा और पहले से हाउस को बताने का क्या मकसद होगा कि अगर वह चली गयी तो क्या होगा।

सदर साहिबा, मैं एक इल्जाम, माफ करेंगे हालांकि मैं उस इल्जाम को कोई अहमियत नहीं देना चाहता था, लेकिन जिक्र हो रहा है कि काल्यूजन सरकार और इलेक्शन कमिश्नर साहब के दरमियान हैं और जो कुछ हो रहा है, यह एक फसाद है जो कि एक कांस्टीट्यूशनल क्राइसिस की सिचुएशन पैदा करने की खातिर हो रहा है।

کے احکامات کی وجوہات بہت زیادہ سمجھ میں نہیں آرہی ہیں۔ الیکشن کمشنر صاحب نے ایک تاریخ مقرر کی ہے ۱۸ دسمبر کی اس ۱۸ دسمبر کی تاریخ کی سینکٹیٹی کیا ہوسکتی ہے وہ سمجھ نہیں آرہی ہے۔ اب ریومرس ہیں۔ بے اندازہ ریومرس ہیں۔ کس کس کا نام لیا جارہا ہے۔ کس کس کو بچانے یا کس کس کو ڈبونے کے لیے کیا کیا جارہا ہے۔ میں ان ناموں کو دہرانا نہیں چاہتا ہوں۔ لیکن میں یہ جاننا چاہتا ہوں کہ ایک سچوایشن اس ملک کے سامنے یہ ہے کہ چار اسٹیٹس میں الیکشن نومبر میں ڈیو ہیں۔ ان الیکشنس کا کیا ہونے والا ہے۔ اگر یہ ۱۸ دسمبر کی تاریخ جس طریقہ سے ہم پر لادی گئی ہے وہ چلتی رہی تو کانسٹی ٹیوشنل رکوائرمنٹس پوری کرنے کے لیے یہ سرکار کس طرف کون سا رخ اختیار کرنا چاہتی ہے۔

ہمارے ایک محترم دوست نے ابھی کہا۔ مجھے تعجب ہوا کہ اگر سرکار ارادہ کررہی ہے کہ وہ سپریم کورٹ میں جائے اور اگر وہ چلی گئی تو یہ معاملہ سبجوڈسٹ ہے۔ اگر وہ چلی گئی کب چلی جائے گی۔ وہ چلی جانے کے بعد سبجوڈسٹ ہوگا اور پہلے سے ہاؤس کو بتانے کا کیا مقصد ہوگا کہ اگر وہ چلی گئی تو کیا ہوگا۔

صدر صاحبہ۔ میں ایک الزام۔ معاف

شری سکندر بخت: صدر صاحبہ۔ آج جو سوال ہمارے سامنے ہے اس کے دو پہلو ہیں۔ ایک قانونی ہوسکتا ہے جس پر غور کرنے کی ضرورت ہے کہ جو سچوایشن پیدا ہوئی ہے چیف الیکشن کمشنر کے اس حکم کے بعد وہ ایک بھیانک سچوایشن ہے۔ ایک سیریس کانسٹی ٹیوشنل کرائسس پیدا ہوئی ہے اس کی قانونی تفصیلات کیا ہیں۔ اگر قانونی تفصیلات جاننا ضروری ہو تو سب سے پہلے میں سرکار سے مطالبہ کروں گا کہ جتنی بھی کورس پوائنٹس ان کے اور چیف الیکشن کمشنر کے درمیان ہوئی ہیں وہ لائیں اور یہاں ہاؤس کے سامنے رکھیں اس کو سمجھنے کے لیے۔ لیکن میں یہ کہنا چاہتا ہوں کہ اس وقت کی جو سچوایشن ہے۔ اس وقت کی سچوایشن بے حد سیریس ہے۔ اور انفورچونیٹلی ایک ملٹی کرائسس سچوایشن میں ایک اور سچوایشن کا اضافہ ہوا ہے صدر صاحبہ۔ اس وقت سب سے بڑا تعجب اس بات کا ہے کہ سرکار خاموش ہے۔ شرد پوار صاحب امیڈیٹلی ری ایکٹ کرسکتے تھے۔ ہائی کورٹ میں جاسکتے تھے اور انھوں نے کچھ کیا لیکن ہمیں یہ معلوم نہیں کہ اتنی سیریس سچوایشن کے سلسلے میں گورنمنٹ کس ڈھنگ سے ری ایکٹ کیا ہے تاکہ یہ ملک اس کرائسس سے باہر نکل سکے۔

صدر صاحبہ۔ اس وقت الیکشن کمشنر صاحب

کریں گے حالانکہ میں اس الزام کو کوئی اہمیت نہیں دینا چاہتا تھا لیکن ذکر ہو رہا ہے کہ کیونکہ سرکار اور الیکشن کمشنر صاحب کے درمیان ہے اور جو کچھ ہو رہا ہے یہ ایک فساد ہے جو کہ ایک کانسٹی ٹیوشنل کرائسس کی سچوایشن پیدا کرنے کی خاطر ہو رہا ہے۔

SHRI JAGESH DESAI (Maharashtra): I am on a point of order.

THE DEPUTY CHAIRMAN : What is it ?

SHRI JAGESH DESAI : He says there is a collusion between the Election Commission and the Government. He cannot speak like this.

SHRI MENTAY PADMANABHAM : Why cannot he, Madam? There is very much... (*Interruptions*)... What is wrong in it? The Government is hand in glove with the Election Commission. There is a clear collusion between the Narasimha Rao Government and the Election Commission.

श्री सिकन्दर बख्त : मेरी गुजारिश सुनिए... (**व्यवधान**)...

SHRI JAGESH DESAI : You cannot discuss the conduct of the Election Commission here. See, we have to go in accordance with the norms governing the House.

SHRI MENTAY PADMANABHAM : when the Chairman permitted Shri Sikander Bakht to discuss this matter in this House, to discuss about the Election Commissioner in the House, what is wrong in mentioning about the Government?

श्री सिकन्दर बख्त : सदर साहिबा, मैं बहुत एतहात से अल्फाज इस्तेमाल करता हूं ... (**व्यवधान**)...

SHRI JAGESH DESAI: Madam, I take very stong objection to this. You cannot discuss the conduct of the Election Commissioner in this House. He says that the Election Commission is in collusion with the Government. This should be expunged from the records.

श्री सिकन्दर बख्त : मैं बहुत इतहाद के अलफाज इस्तेमाल करता हूं। मैंने यह कहा था दर्जनों किस्म की रयूमर्स अफवाहें हवा में हैं। मैं यह भी अर्ज करना चाहता हूं कि यह कहा जा रहा है कि कुछ लोगों को इससे रोकने की कोशिश की है ताकि वह इलेक्शन न लड़ सकें। लेकिन, मैंने अर्ज किया... (**व्यवधान**) हुजूर मोहतम, मैं तो झुक जाता हूं जब आपकी तरफ नजर उठती है।

मैंने यह अर्ज किया है कि अफवाहें हैं दर्जनों किस्म की और सरकार पर जिम्मेदारी है कि उन अफवाहों के सिलसिले में अपनी सफाई बतायें। जगेश दसाई जी की खिदमत में मैं यह अर्ज करना चाहूंगा, आपके जरिए से, कि मैंने यह कहा है कि उनमें से एक अहमतरीन अफवाह यह है कि सरकार के और चीफ इलेक्शन कमीश्नर साहब के दरमियान काल्यूजन है ताकि नवम्बर के चुनाव में रुकावट डाली जाए। मैंने यह कहा है कि (**व्यवधान**)

شری سکندر بخت: میں بہت اتحاد کے الفاظ استعمال کرتا ہوں۔ میں نے یہ کہا تھا۔ درجنوں قسم کی ریومرس۔ افواہیں ہوا میں ہیں۔ میں یہ بھی عرض کرنا چاہتا ہوں کہ یہ کہا جا رہا ہے کہ کچھ لوگوں کو اس سے روکنے کی کوشش کی ہے تاکہ وہ الیکشن نہ لڑ سکیں۔ لیکن میں نے عرض کیا... "مداخلت"... حضور محترم میں تو جھک جاتا ہوں جب آپ کی طرف نظر اٹھتی ہے۔

میں نے یہ عرض کیا ہے کہ افواہیں ہیں درجنوں قسم کی اور سرکار پر ذمہ داری ہے کہ ان افواہوں کے سلسلے میں اپنی صفائی بتائے۔ جگیش ڈیسائی جی کی خدمت میں میں یہ عرض کرنا چاہتا ہوں آپ کے ذریعہ سے کہ میں نے یہ کہا ہے کہ ان میں سے ایک اہم ترین افواہ یہ ہے کہ سرکار

کے اور چیف الیکشن کمشنر صاحب کے درمیان کوئی وزن ہے تاکہ نوٹس کے چناؤ میں رکاوٹ ڈالی جائے۔ میں نے یہ کہا ہے کہ ... "مداخلت"...

श्री जगेश देसाई : यह गलत बात है। अफवाहों के बारे में यहां बात नहीं होनी चाहिए। . . . (**व्यवधान**)

श्री सिकन्दर बख्त : मैंने यह अर्ज किया है कि इस किस्म की अफवाहें हैं और मैं मुतालबा सरकार से कर रहा हूं कि सरकार इस बारे में अपनी सफाई पेश करे।

شری سکندر بخت: میں نے یہ عرض کیا ہے کہ اس قسم کی افواہیں ہیں اور میں مطالبہ سرکار سے کر رہا ہوں کہ سرکار اس بارے میں اپنی صفائی پیش کرے۔

उपसभापति : सिकन्दर बख्त साहब, एक मिनट। . . . (**व्यवधान**) . . . सिकन्दर बख्त साहब, जो कि अखबार में मैंने पढ़ा है और अभी आपसे पहले जो बोले हैं, उन्होंने लड़ाई झगड़े की बात की है कि सरकार का और इलेक्शन कमीश्नर का झगड़ा है इसलिए हो रहा है। और, अफवाहों के बारे में तो यहां बोलना मुझे लगता है कोई मुनासिब नहीं है।

श्री सिकन्दर बख्त : मैं दूसरी बात कह रहा हूं। यहां लड़ाई झगड़ा किसके दरमियान है, वह बात एक अलहदा है। मुझे यह कहना है, सदर साहिबा, कि इस किस्म की साजिशें पहले भी हो चुकी हैं। (**व्यवधान**) . . .

شری سکندر بخت: میں دوسری بات کہہ رہا ہوں۔ یہاں لڑائی جھگڑہ کس کے درمیان ہے وہ بات ایک علیحدہ ہے۔ مجھے یہ کہنا ہے صدر صاحبہ کہ اس قسم کی سازشیں پہلے بھی ہو چکی ہیں۔۔ "مداخلت"...

श्री यशवन्त सिन्हा : मैडम, आपने मिली-कुश्ती की बात सुनी है या नहीं। मिली-भगत, मिली-कुश्ती, वही हो रहा है। . . . (**व्यवधान**)

श्री सिकन्दर बख्त : मैं यह कहना चाह रहा हूं आपसे कि यहां पर एक ऐसा तय हुआ था कि यहां कम्पोजिट इलेक्शन कमीश्नर की एक टीम हो, जिसके जरिए कारोबार चलाया जाए और वह भी एहतियाती सहूलियत के लिए अख्तियार किया गया था। मेरा यह कहना है। कैसे यह हुआ कि अगली सरकार के आते ही टीम आफ इलेक्शन कमीश्नर के सिलसिले में खतम कर दिया गया? क्या हर चीज के पीछे . . . (**व्यवधान**) . . .

شری سکندر بخت: میں یہ کہنا چاہ رہا ہوں آپ سے کہ یہاں پر ایک ایسا طے ہوا تھا کہ یہاں کمپوزٹ الیکشن کمشنر کی ایک ٹیم ہو۔ جس کے ذریعہ کاروبار چلایا جائے اور وہ بھی احتیاطی سہولت کے لیے اختیار کیا گیا تھا۔ میرا یہ کہنا ہے کیسے یہ ہوا کہ اگلی سرکار کے آتے ہی ٹیم آف الیکشن کمشنر کے سلسلے میں ختم کر دیا گیا۔ کیا ہر چیز کے پیچھے "مداخلت"...

SHRI JAGESH DESAI: It is you people who have done that.

श्री विश्वजित पृथ्वीराज सिंह (**महाराष्ट्र**) : आपने खतम किया। . . . (**व्यवधान**) . . .

श्री सिकन्दर बख्त : मैं यह कह रहा हूं। आपने सुनी नहीं मेरी बात। आपने फिर नहीं सुनी मेरी बात। मैंने यह कहा है कि जिस वक्त मुकर्रर किया गया था तो उसमें भी अपना एक सियासी मकसद पूरा करने के लिए मुकर्रर किया गया था और सरकार ने उनको हटाया, वह उस मकसद से पूरा होने से रोका, यह किया गया था। आप मेरी बात को फिर उलझा रहे हैं, उसको समझने की कोशिश . . . (**व्यवधान**)

شری سکندر بخت : میں یہ کہہ رہا ہوں۔ آپ نے سنی نہیں میری بات۔ آپ نے پھر نہیں سنی میری بات۔ میں نے یہ کہا ہے کہ جس وقت مقرر کیا گیا تھا تو اس میں بھی اپنا ایک سیاسی مقصد پورا کرنے کے لیے مقرر کیا گیا تھا اور سرکار نے ان کو ہٹایا وہ اس مقصد سے پورا ہونے سے روکا۔ یہ کہا گیا تھا اور سرکار نے ان کو ہٹایا وہ اس مقصد سے پورا ہونے سے روکا۔ یہ کیا گیا تھا۔ آپ میری بات کو بھر الجھا رہے ہیں۔ اس کو سمجھنے کی کوشش نہیں کی... "مداخلت"...

श्री विश्वजित पृथ्वीजित सिंह : और आप करते हैं तो उसमें कोई मतलब नहीं, कोई मकसद नहीं है ।

श्री सिकन्दर बख्त : वह तो आप कहते हैं, जो हम करते हैं उसके बारे में मैं तो उसका जिक्र करूंगा जो आप करते हैं।

شری سکندر بخت : وہ تو آپ کہتے ہیں۔ جو ہم کرتے ہیں اس کے بارے میں۔ میں تو اس کا ذکر کروں گا جو آپ کرتے ہیں۔

श्री विश्वजित पृथ्वीजित सिंह : आप लोगों ने जब गवर्नमेंट हटाई थी, आपने नहीं किया कि सियासी मकसद के लिए कर रहे हैं । अफवाह खुद फैलाते हो और फिर खुद पूछते हो कि यह क्या है . . . **(व्यवधान)**

श्री सिकन्दर बख्त : चलिए, ऐसा ही सही। मेरी अफवाह के बारे में सरकार बता दे । अगर अफवाह मेरी तरफ से फैलाई हुई है तब भी बता दें। खामोश बैठे रहने का क्या मतलब है ।

सदर साहिबा, बहुत सीरियस सिचुएशन पैदा हो चुकी है। मुझे ताज्जब होता है कि इस वक्त कुछ लोग कोशिश कर रहे है एक पक्ष की हिमायत करने की और कुछ लोग हिमायत करने की दूसरे पक्ष की कोशिश कर रहे हैं । हम यह जानना चाहते है कि आखिर इस की कंस्टीट्यूशन क्राइसेस में यह मुल्क क्या अख्तियार कर सकता है ? जवाबदेही सरकार पर भी है, जवाबदेही इलेक्शन कमीश्नर साहब पर भी है । इलेक्शन कमीश्नर साहब महीनों से खत्तो-खिताबत कर रहे हैं, लेकिन न सरकार किसी नतीजे पर पहुंच सकी और न इलेक्शन कमीश्नर साहब पहुंच सके । अचानक, कल चुनाव होने वाला है और यह हुकुम आ गया है। आखिर इरादा क्या है ? इस मुल्क को चलने देने का इरादा है या नहीं है ? कानूनन किसकी गलती है, कानूनन कौन ठीक है, हमको उससे गर्ज नहीं है। हमारा कहना यह है कि मुल्क चलना चाहिए, इस मुल्क के अंदर कानूनी राज होना चाहिए, इस मुल्क के अंदर कंस्टीयुशनल अथोरिटी को तबाह नहीं करना चाहिए । मुझे अफसोस है कि इलेक्शन कमीश्नर साहब ने यह कदम अचानक उठाया है और एक बोझ की तरह से, एक पहाड़ की तरह वह हिन्दुस्तान पर टूट पड़ा है । इनको कोई हक नहीं था इस तरीके का यह कदम उठाने का।... **(व्यवधान)**

شری سکندر بخت : چلئے ایسا ہی صحیح۔ میری افواہ کے بارے میں سرکار بتا دے۔ اگر افواہ میری طرف سے پھیلائی ہوئی ہے تب بھی بتا دیں۔ خاموش بیٹھے رہنے کا کیا مطلب ہے۔ صدر صاحبہ۔ سیریس سچوایشن پیدا ہو چکی ہے۔ مجھے تعجب ہوتا ہے کہ اس وقت کچھ لوگ کوشش کر رہے ہیں ایک پکش کی حمایت کرنے کی اور کچھ لوگ حمایت کرنے کی دوسرے پکش کی کوشش کر رہے ہیں۔ ہم یہ جاننا چاہتے ہیں کہ آخر اس کی کانسٹی ٹیوشن

کرائسس میں یہ ملک کیا رخ اختیار کرسکتا ہے جوابدہی سرکار پر بھی ہے۔ جوابدہی الیکشن کمشنر صاحب پر بھی ہے۔ الیکشن کمشنر صاحب مہینوں سے خط و کتابت کر رہے ہیں لیکن نہ سرکار کسی نتیجہ پر پہنچ سکی اور نہ الیکشن کمشنر صاحب پہنچ سکے۔ اچانک کل چناؤ ہونے والا ہے اور یہ حکم آگیا ہے۔ آخر ارادہ کیا ہے۔ اس ملک کو چلنے دینے کا ارادہ ہے یا نہیں ہے۔ قانوناً کس کی غلطی ہے۔ قانوناً کون ٹھیک ہے ہم کو اس سے غرض نہیں ہے۔ ہمارا کہنا یہ ہے کہ یہ ملک چلنا چاہیے۔ اس ملک کے اندر قانونی راج ہونا چاہیے۔ اس ملک کے اندر کانسٹی ٹیوشنل اتھارٹی کو تباہ نہیں کرنا چاہیے۔ مجھے افسوس ہے کہ الیکشن کمشنر صاحب نے یہ قدم اچانک اٹھایا ہے اور ایک بوجھ کی طرح سے ایک پہاڑ کی طرح وہ ہندوستان پر ٹوٹ پڑا ہے ان کو کوئی حق نہیں تھا اس طریقہ کا یہ حق اٹھانے کا... "مداخلت"...

श्री इन्द्र कुमार गुजराल : पंजाब में यही किया था और... **(व्यवधान)**...

श्री सिकन्दर बख्त : जी हां, यह सिलसिला मुस्तकिल चल रहा है कि चाहे, जब चाहे, इलेक्शन खतम कर देते हैं। सदर साहिबा, मैं यह समझता हूं कि यह मल्टी-क्राइसेस आज इस मुल्क के सामने आ चुका है। कदम-कदम पर हम पर यह चेलेन्जेज है, इस मुल्क की जो नेशनल पब्लिक है उसकी मजबूती की तरफ जो चेलेन्ज हैं उससें एक नया इजाफा कर दिया गया है। जो ला-इलाज नजर आता है। कुछ समझ में नहीं आता कि इलेक्शन कमिश्नर साहब का यह हुक्म बाकी रहेगा तो हश्र क्या होगा ? कोर्ट से जाने की बात यह है, जिसके मुतल्लिक जगेश देसाई साहब ने ऐतराज किया है, जब वह लोग, एक टीम आफ इलेक्शन कमिश्नर मुकर्रर की थी राजीव गांधी की सरकार ने तो उसके खिलाफ स्ट्रिक्चर्स सुप्रीम कोर्ट ने पास किए थे। मैं यह कहता हूं कि इलेक्शन कमीशन को आप अपने मकसद के लिए इस्तेमाल करने की कोशिश को बंद कीजिए और इलेक्शन कमिश्नर साहब को कहना चाहता हूं कि आपको अगर आदत पड़ गई हैं एकतरफा कदम उठाने को **(व्यवधान)**

श्री सिकन्दर बख्त : जी हाँ यह सिलसिला मुस्तकिल चल रहा है कि चाहे जब चाहे इलेक्शन खतम कर देते हैं। सदर साहिबा, मैं यह समझता हूं कि यह मल्टी-क्राइसेस आज इस मुल्क के सामने आ चुका है। कदम-कदम पर हम पर यह चेलेन्जेज है, इस मुल्क की जो नेशनल पब्लिक है उसकी मजबूती की तरफ जो चेलेन्ज हैं उससें एक नया इजाफा कर दिया गया है। जो ला-इलाज नजर आता है। कुछ समझ में नहीं आता कि इलेक्शन कमिश्नर साहब का यह हुक्म बाकी रहेगा तो हश्र क्या होगा ? कोर्ट से जाने की बात यह है, जिसके मुतल्लिक जगेश देसाई साहब ने ऐतराज किया है, जब वह लोग, एक टीम आफ इलेक्शन कमिश्नर मुकर्रर की थी राजीव गांधी की सरकार ने तो उसके खिलाफ स्ट्रिक्चर्स सुप्रीम कोर्ट ने पास किए थे। मैं यह कहता हूं कि इलेक्शन कमीशन को आप अपने मकसद के लिए इस्तेमाल करने की कोशिश को बंद कीजिए और इलेक्शन कमिश्नर साहब को कहना चाहता हूं कि आपको अगर आदत पड़ गई हैं एकतरफा कदम उठाने की... "मदाखलत"...

SHRI MADAN BHATIA: Madam, I respectfully submit that this statement of the hon. Member that the Supreme Court passed a stricture against the appointment of an Election Commissioner is totally incorrect. There was one Election Commissioner who challenged the order of his dismissal by their Government. And all that the Supreme Court said was that the Government has got the right to remove him from office. (*Interruptions*)

SHRI SUBRAMANIAN SWAMY : Ask him to produce the Supreme Court judgment.

SHRI MADAN BHATIA : The statement that he has made that the Supreme Court has passed a stricture...

SHRI SIKANDER BAKHT : I thought he was going to say something serious. Now, I am not yielding to him at all.

SHRI VISHVJIT P. SINGH: Madam, I am on a point of order. My point of order is that as a special circumstance, he should not ask Sikander Bakhtji to produce any such judgment. We know that he is only going by rumours, and he is not going by the facts.

श्री सिकन्दर बख्त : अच्छा है, यह बोलने का बहाना बहुत अच्छा है, बहुत सारे लोगों को मिलता है कि जब कोई मौका हो या न हो, प्वाइंट आफ आर्डर का नाम लेकर खड़े हो जाओ, मुझे कोई ऐतराज नहीं है। लेकिन सदर साहिबा, मैं फिर दोबारा कहना चाहता हूं कि मैं क़ानूनी तफ़सिलात में नहीं जाना चाहता हूं कि इलेक्शन कमिश्नर साहब के क्या अख्तियारात हैं.. (**व्यवधान**)

†ڈری سکندر بخت: اچھا ہے یہ بولنے کا بہانہ بہت اچھا ہے بہت سارے لوگوں کو ملتا ہے کہ جب کوئی موقع ہو یا نہ ہو پوائنٹ آف آرڈر کا نام لے کر کھڑے ہو جاؤ۔ مجھے کوئی اعتراض نہیں ہے لیکن صدر صاحبہ۔ میں پھر دوبارہ کہنا چاہتا ہوں کہ میں قانونی تفصیلات میں نہیں جانا چاہتا ہوں کہ الیکشن کمشنر صاحب کے کیا اختیارات ہیں... مداخلت...

SHRI SUBRAMANIAN SWAMY : He has quoted a Supreme Court Judgment. Can he name the Supreme Court judgment, the date and the number of the judgment? If he cannot give, then it cannot go on record.

श्री सिकन्दर बख्त : सदर साहिबा, मैं और स्टेट रहता हूं कि इलेक्शन कमीशन तनाजा रहा गवर्नमेंटस के दरम्यान भी है और उसमें स्टेट गवर्नमेंटस की गलती भी रही हैं, लेकिन इस किस्म का क्राइसेस तो पैदा नहीं हुआ उससे जैसा आज पैदा हुआ है। आखिर इस क्राइसिस का इलाज क्या है, वह सरकार बताए ? सरकार के सोने का आलम यह है कि अब तक कोई पोज़िटिव रिएक्शन का कोई सबूत, कोई मेनिफेस्टेशन हमारे सामने नहीं आया है। सदर साहिबा, मेरी शिकायत सेंट्रल गवर्नमेंट से भी है, इलेक्शन कमिश्नर साहब से भी है और मैं यह कहना चाहता हूं कि सबसे पहले कोई पक्ष भी अपनी सिचुएशन को दुरुस्त साबित करने की अगर कोशिश करता है तो वह तमाम खतो-किताबत, जो गवर्नमेंट के और इलेक्शन कमिश्नर के दरम्यान है, वह हाउस के पटल पर आए और हम देखें। सदर साहिबा, इलेक्शन कमिश्नर का ओहदा इतने ऊंचे मकाम का ओहदा है कि उसमें सिर्फ इम्पलसिवली कोई कदम उठाया जाना मुमकिन नहीं हो सकता है और आप जरा अंदाजा कीजिए कि अगर इस किस्म के अख्तियारात इलेक्शन कमिश्नर के ओहदे पर मौजूदा सूरतेहाल को सामने रखते हुए दिए जाना खतरनाक साबित हो सकता है तो जो रिटर्निंग आफिसर्स को अख्तियारात देने का इरादा सरकार कर रही है, उसमें उसका क्या हश्र होने वाला है ? मुझे यही अर्ज करना था। शुक्रिया।

†[ ]Transliteration in Arabic Script.

شری سکندر بخت: صدر صاحبہ۔ میں یہ کہنا چاہتا ہوں کہ الیکشن کمیشن اور اسٹیٹ گورنمنٹ کے درمیان بھی تنازعہ رہا ہے۔ اور اس میں اسٹیٹ گورنمنٹ کی غلطی بھی رہی ہے لیکن اس قسم کا کرائسس تو پیدا نہیں ہوا۔ اس سے جیسا آج پیدا ہوا ہے۔ آخر اس کرائسس کا علاج کیا ہے وہ سرکار بتائیے۔ سرکار کے سونے کا عالم یہ ہے کہ وہ اب تک کوئی پوزیٹیو ری ایکشن کا کوئی ثبوت۔ کوئی نوٹیفیکیشن ہمارے سامنے نہیں آتا ہے۔ صدر صاحبہ۔ میری شکایت سنٹرل گورنمنٹ سے بھی ہے الیکشن کمشنر صاحب سے بھی ہے اور میں یہ کہنا چاہتا ہوں کہ سب سے پہلے کوئی پکشن بھی اپنی سچوایشن کو درست ثابت کرنے کی اگر کوشش کرتا ہے تو وہ تمام خط و کتابت جو گورنمنٹ کے اور الیکشن کمشنر کے درمیان ہے وہ ہاؤس کے ٹیبل پر آئے اور ہم دیکھیں۔ صدر صاحبہ۔ الیکشن کمشنر کا عہدہ اتنے اونچے مقام کا عہدہ ہے کہ اس میں صرف اپیلسیوں کو قدم اٹھایا جانا ممکن نہیں ہو سکتا ہے اور آپ ذرا اندازہ کیجیے کہ اگر اس قسم کے اختیارات الیکشن کمشنر کے عہدے پر موجودہ صورتحال کو سامنے رکھتے ہوئے دیے جانا خطرناک ثابت ہو سکتا ہے تو جو رٹرننگ آفیسر کو اختیارات دینے کا ارادہ سرکار کر رہی ہے اس میں اس کا کیا حشر ہونے والا ہے۔ مجھے یہی عرض کرنا تھا۔ شکریہ

THE DEPUTY CHAIRMAN: Mrs. Margaret Alva, you wanted to say something?

SHRIMATI MARGARET ALVA: A request was made that the Government should respond. I wish to inform the House that a statement will be made by the Government in the afternoon in both the Houses of Parliament as far as the Election Commission issue is concerned. I will tell you the exact time a little later because both the Houses are to be solved.

SHRI SUBRAMANIAN SWAMY: Madam, I am on a point of order. (Interruptions) Mr. Sikander Bakht has quoted a Supreme Court judgment to say that strictures are passed. Is he in a position to quote the judgment...

THE DEPUTY CHAIRMAN: I will look into the record as to what he said.

SHRI SUBRAMANIAN SWAMY: Without reading it, he has informed the House.

THE DEPUTY CHAIRMAN: I will find out. Now, Shri P. Upendra.

SHRI S. JAIPAL REDDY: Madam...

THE DEPUTY CHAIRMAN: We cannot have it according to the Party because these two names were given to me. The Chairman has permitted Mr. Subramanian Swamy and Mr. Sikander Bakht.

SHRI S. JAIPAL REDDY: All of us...

THE DEPUTY CHAIRMAN: I have to go according to some procedure.

Those who gave their names first, I should call them accordingly. Your name is there. Otherwise, you tell me how I should run this House. Everybody will get a chance. But I will only request the Members to be a little brief.

SHRI JAGESH DESAI: The Minister has just now said that the Government is going to make a statement. After the statement is made, then only we will speak. Why should we spend time on it now?

THE DEPUTY CHAIRMAN : It is entirely up to the House.

SHRI P. UPENDRA (Andhra Pradesh): Let us finish it now.

THE DEPUTY CHAIRMAN: I will only request the Members to be brief, and there should be no interruptions.

SHRI P. UPENDRA: A first class Constitutional imbroglio has been created by the abrupt postponement of the bye-elections to the Lok Sabha and to the State Assemblies, as well as biennial elections to the Rajya Sabha and the State Legislative Councils, by the Chief Election Commissioner. I do not want to read the entire order of the Chief Election Commissioner but one para, as reported in the newspapers, makes serious charges against the Government. It says: "Mr. Seshan, in his order, accused the Government of making an attempt to subjugate the Election Commission to the authority of the executive and regarded the Government stand in the matter as a challenge not only to the Constitutional position of the Commission but as to one that militated against the Supreme Court ruling." He also said in he order — and I again quote—"It is evident from the above narration that a stage has been reached in which the Commission, instead of being enabled to discharge its Constitutional obligations, duties and functions of fulfilling the aspirations of the people to elect their representatives through a peaceful, free and fair election, is being deliberately and consciously prevented and incapacitated from so doing by open defiance by the Government of India of the provisions of the Constitution of India and of laws made by Parliament.

These are very servious charges made by a Consttutional authority against the Government of India and the Government owes an explanation to this House and also an answer to this House. Mr. Seshan may be accused of being egoistic or impetuous or rash or reckless or whatever you may say but you cannot ignore the points he has legitimately raised. Infact, I should accuse both the Governmet and some of the parties on this side who have approved such actions earlier. Is it not the Congress Party and also the present Prime Minister who endorsed his stand when he cancelled Punjab elections a few hours before the elections were to be held? They applauded it and even before he took the oath, the Prime Minister and the Congress Party asked for it without the knowledge of the then Prime Minister. Is it not a fact that some people in this House rejoiced when Tripura elections were cancelled? Therefore, we should not go by those standards but should go into the points raised by the Chief Election Commissioner in this respect. And what did he say? He raised three pertinent points. One poit, is, what is the jurisdiction of the Commission in the selection of the right staff for poll duty: the second point is regarding the Commission's sole jurisdiction to exercise disciplinary "control over such staff: and the third point he raised is about deployment of Central police forces to ensure smooth and fair poll. These are the three points raised. and the Government has to clarify its stand on all these three points raised and the Government has to clarify its stand or all these three points raised.

The Government also has to be blamed in this respect because the Chief Election Commissioner in his order, has categorically stated that in spite of his repeated efforts to get a clarification from the Government and in spite of his meeting the Prime Minister twice and having discussed the matter, no clarification has been given by the Government. Therefore, he entirely blamed the Government

for this imbroglio. Therefore, the Government has to be blamed for this situation.

What we demand now is, first the Government should clarify the position in regard to the demands raised by the Chief Election Commissioner. If necessary, they should hold an all-party meeting to discuss with all the party leaders the points raised by him and the stand of the Government, and if a Constitutional amendment or an amendment to the Representation of the People Act is required, it may be resorted to with the concurrence of all the parties so that such situations will not arise in future. The Government should also publish all the correspondence between the Chief Election Commissioner and the Government. We should know the points raised by him. We should know what are the points raised by him and the Government's response to that. The Central Government should also sort out these matters immediately with the Chief Election Commissioner because much more is at stake. As was pointed out by the Leader of the Opposition, elections to the 4 State Assemblies are due. We are not concerned with whether Mr. Sharad Pawar will be able to come back, will be able to retain his Chief Ministership within six months, or, whether Mr. Pranab Mukherjee will be reinducted into the Cabinet. These are minor matters. Much more is at stake. Therefore, this matter has to be settled very quickly. Also, we should think of appointing a multi-member Election Commission so that the caprices and individual whims of one single Chief Election Commissioner do not decide the fate of democracy in the country. Thank you.

SHRI SUKOMAL SEN (West Bengal): Madam, our country, at present is going through a severe constitutional crisis. The Chief Election Commissioner has postponed all the by-elections. He has postponed the by-elections as per his own whim and caprice. When Mr. Subramanian Swamy got up to speak, I was not surprised because we know that he is always a good advocate for all types of bad conduct. But I was surprised at what Mr. Upendra had said. When he spoke, I heard him with rapt attention. I was surprised that what he was saying was at total divergence from what Mr. Sikander Bakht, the Leader of the Opposition, had said, instead of dittoing him, instead of following him, because he belongs to the same camp. Anyway, I think the Members on that bench will take note of what Mr. Upendra had said.

Madam, the point is, the press note has come out in all the newspapers. Therefore, it is not necessary to quote from the press note. Everything is covered by the press reports. The point is, the people of the country are being held to ransom by the Chief Election Commissioner because the people have a right to elect their representatives to the Rajya Sabha; the people have a right to elect their representatives to the Lok Sabha. Unfortunately, the Election Commission has stood in the way. Of course, this is not the first time that it has stood in the way. Ever since his appointment as the Chief Election Commissioner, at the instigation of Mr. Subramanian Swamy, he has been behaving in the same fashion.

SHRI SUBRAMANIAN SWAMY: Where is the question of instigation? He was appointed by me. I was the Law Minister then. Communists do not know the basic constitutional position. It is only in Communist societies that everything is by instigation.

SHRI INDER KUMAR GUJRAL: Your appointments are always nice. We are paying for that. (Interruptions)

SHRI SUBRAMANIAN SWAMY: You try to rig the elections. You will pay more. (Interruptions)

SHRI N. E. BALARAM (Kerala): You are worse than a bad communist.

SHRI SUKOMAL SEN: When Mr. Seshan was appointed on the basis of the proposal of Mr. Subramanian Swamy, at that time itself, it was very clear as to what was going to happen in the country, what was going to happen in the future. (Interruptions).

THE DEPUTY CHAIRMAN: Please allow Mr. Sukomal Sen to speak.

SHRI SUKOMAL SEN: For the last three years, he has been behaving in this arbitrary and whimsical manner and his behaviour has cost the population, the voters, a lot. This is not the first time. In the past also, he has behaved in this manner. Earlier also, in the case of elections to the State Assemblies and by-elections to the Lok Sabha, he has behaved in the same way. He postponed the elections arbitrarily. He withheld the results of elections arbitrarily. He ordered repolls in several constituencies without any rhyme or reason. He has been behaving in a partisan way, I must say, at the behest of the ruling party. This is my conclusion. This is also the experience of the people who have voted in the elections.

Madam, he says that he had problems with the Central Government. He has problems not only with the Central Government, but with the State Governments also. For example, he had a problem with the West Bengal Government in regard to the appointment of the Chief Electoral Officer. At his request, the West Bengal Government sent, one by one, names of 21 senior I.A.S. officers so that he could select one of them as the Chief Electoral Officer, but he rejected all the names. Instead, he said that they should appoint as the Chief Electoral Officer a person from outside the State, outside the West Bengal cadre, so that he would be neutral. Does the Constitution give this power to him? The Constitution does not give this power to him so that he can say that the Chief Electoral Officer should be a person from outside the State. He says that the Election Commission has this power under the Constitution. It is a wrong interpretation of the Constitution. This gentleman seems to be suffering from megalomania. He thinks that he can override the Constitution, he can override Parliament and he can override the will of the people. In this way, he has been misusing the authority given to him under the Constitution.

Now, Madam, in regard to the pos of Supreme Court judges, the Comptroll and Auditor-General and the Chief Ele tion Commissioner Constitution clearl envisages what these posts are and wh these powers are given to them. Thes powers are not for misuse, but I find tha the Chief Election Commissioner, afte his appointment, has been misusing hi power in a manner which cannot be des cribed. Whatever he is feeling, he i doing and he is holding the entire countr to ransom. Everytime we find that hi action coincided with the will of th ruling party. This time also there is som likelihood. Otherwise, why would hav Shri Subramanian Swamy got up an advocated for him?

SHRI SUBRAMANIAN SWAMY: Why not? If you are opposing...

SHRI SUKOMAL SEN: In the Constitution there is a provision that a multi-member Commisson may be appointed. It has been provided so that no autocracy takes place, so that no particular individual can act autocratically, so that the Commission can have a collective wisdom. For that purpose, the Constitution envisages a multi-member Commission. But what do we find? Even in that respect, once upon a time when the Government appointed a multi-member Commission, it was appoined to suit their own purpose, their own design. Madam, Election Commission or a multi-member Commission should not be misused by the ruling party, but unfortunately, it is happening.

Madam, I would like to suggest that the Government should take note of these things. When in the other House there was a proposal to impeach the Chief Election Commissioner for his past conduct, the motion could not be put forth because of the opposition by certain political parties. Now, many political parties, particularly on this side, are coming round to the view that the Chef Election Commissoner is in collusion with the Government. If that is so, I do not know why they do not agree to the impeachment of the Chief Election Commissoner. What can be a more grave offence than this? He deserves impeachment. They say

that they will give a statement. Shrimati Margaret Alva has said that the Government is concerned. I do not know whether the Government is really concerned or not, but the Chief Election Commissioner has held up all the elections, not only in West Bengal, but everywhere. Since 9th July these seats are vacant. People have a right to elect representatives, but deliberately these elections are being delayed. I would like to know from the Government, if they are really concerned about what the Chief Election Commissioner has done yesterday, whether the Government is prepared to bring forward an impeachment motion against the Chief Election Commissioner in the other House so that this gentleman could be removed and a multi-member Commission could be set up, an impartial Commission could be set up.

THE DEPUTY CHAIRMAN: That statement is coming. At that time you can ask.

SHRI SUKOMAL SEN: We are making these points so that they could consider them. They should come out with the statement that they agree to the formation of a multimember Commission and also to the impeachment of the Chief Election Commissioner. This is necessary so that pending elections could be held immediately, so that people do not suffer, so that the composition of Rajya Sabha and Lok Sabha do not suffer.

SHRI GURUDAS DAS GUPTA (West Bengal): Madam, let us not hold any brief for anybody. I do not say that the Chief Election Commissioner does not have any power, but the point is whether he can take recourse to the suspension of elections to give vent to his feelings of anger and anguish with the executive of the country. That is the moot point. The moot point is, the Chief Election Commissioner, in the name of upholding his constitutional authority, has taken recourse to the most unconstitutional and extra-constitutional method. He has no right to interfere in the process of functional democracy in the country. The country is a functional democracy. He cannot suspend elections. He cannot postpone elections, in a way he cannot prevent the people from sending their representatives to the national forum. That is the main point. The main point is, the organs of the State are at logger-heads. The Chief Election Commissioner has a view and he is of the view that the executive is interfering in his work. Where can the remedy be found? The remedy cannot be found by unilateral action on his behalf. He could have referred the matter to the Supreme Court. The Constitution categorically lays down the procedure for settling such disputes. Without taking recourse to that, he has unilaterally taken a position.. Thsi is where the process of Indian democracy is at loggerheads, is really in a crisis. He has precipitated a constitutional crisis. Therefore, if the country has to function within the parameters of the constitution, this crisis has to be settled according to the norms of the Constitution. Bu who can settle it? Can Mr. Seshan settle it by his action or can the Government of India take a position, "No, you are in the wrong; we shall do according to our own sweet will?" Therefore, it has to be settled by referring the matter to the Supreme Court.

Now the point is whether Mr. Seshan is taking to outrageous methods. Yes, Mr. Seshan is going too far. His wings must be clipped. In order to clip his wings within the parameters of the Constitution either the Constitution has to be amended to clearly delineate what his power is and what his prerogative is or, at the same time, he has to be impeached. Either of the two. The country must take recourse to a constitutional amendment to clip his wings and, if it is not done, then in the name of propriety, in the name of constitutional power and in the name of upholding democacy, the custodian of democracy can ops to become most authoritative and authoritarian, as this gentleman appears to be at the present moment. Therefore Madam, the point is it is not the country alone which has to be saved. It is, of course, true, but most important is, the Constitution has to be

saved, democrary has to be saved, the right of the Rajya Sabha and the right of the Lok Sabha must be upheld.

Mr. Seshan cannot fight for his right by interfering with the rights of either House of Parliament. He is actually interfering with our rights because his action tantamounts to suspending elections, which means that the formation of the Lok Sabha is not allowed to be completed. He is interfering with the right of the Lok Sabha because he is not allowing elections to take place. He is interfering with the rights of the Legislative Assemblies because he is not allowing elections to take place there. That is not the course That is, of course, not the only course.

Madam, I do not know whether there is an element of collusion, but there is an element of intrigue, after all. Because, for a long time this gentleman has taken recourse to certain actions which are open to question Why had not the Central Government been taking action before this? It is because of the inaction, it is because of its silence that there is a question of intrigue, and there can also be a question of collusion. In order to clear the situation, in order, again I say, to clear the cloud of suspicion—the cloud of suspicion is there in the sky on many counts and the Government is not taking care of that; the Prime Minister does not care to clear the cloud of suspicion on many counts—at least on this count the Prime Minister must come straightforward. It is not a question of making a statement. It s a question of taking steps to ensure that the process of function of democracy in the country is not allowed to be interfered with by the Election Commission in the name of upholding democracy. Therefore, Madam, I plead for a constitutional amendment as a safeguard against future anarchy. I plead for restructuring of the Election Commission. I plead for a decisive action against the anarchy which is being pertcetrated. I plead that a national consensus must be arrived at to ensure that such a situation does not take up in future. The country must consider, not as a matter of retaliation but as a matter of remedy, whether such a person should be subjected to parliamentary impeachment. If some sort o fsafeguard is not ensured, in future also aberrations can take place. Therefore, Madam, I believe this unilateral action by the Election Commissioner is outrageous, unprecedented and perverse in nature.

SHRI S. JAIPAL REDDY: Madam, when the Constitution was being drafted, there were many luminaries who thought that the Prime Minister of India could become a dictator or that the President of India could become a dictator, but non of them was wise enough to see that the Chief Election Commissioner could also become a tinpot dictator.

SHRI CHATURANAN MISHRA: At that time Mr. Seshan was no born.

SHRI S. JAIPAL REDDY: Even Dr. Swamy who normally plays the role of an advocate of a devil could not defend....

SHRI SUBRAMANIAN SWAMY: I have not been your advocate even once.

SHRI S. JAIPAL REDDY: Well you have been far away from angels. Even Dr. Swamy has not been able to defend the action of Mr. Seshan. I must compliment him on this extraordinary display of discretion.

SHRI SUBRAMANIAN SWAMY: what does he mean by it? There is no question or defence or offence in this case. It is a question of understandig the problem.

SHRI S. JAIPAL REDDY: Let me put across my views, Mr. Swamy. The point I am trying to make is that the Chief Election Commissioner has gone on strike. He says that so long as this is not done, he will not function as Chief Election Commissioner. He has struck work.

Madam, he has certainly raised some issues. I am sure even lunatics raise some issues. One is not sitting on the mertts of the issue which were incidentally raised by Mr. Upendra. One has to go into the motives which prompted the person to raise the issues.

SHRI P. UPENDRA: There is a method in the madness all right.

SHRI S. JAIPAL REDDY: He did refer to the question of deployment of Central forces in Tamil Nadu. I am not saying that he should have postponed elections there. But he could have thought of postponing the elections in Tamil Nadu. It would have pleased Dr. Swamy. But he postponed elections all over the country. None of the issues that he raised is new. All these issues were known to him before he notified the election schedule. Why did he in the first place notify the elections if he thought that these issue were so important? The Chief Election Commissioner cannot be a backmailing authority. He cannot link unconnected issues. In his press note he referred to the way election to the office of President was also held. Is he going to decide who the Chief Secretary of a State should be?

Article 324, sub-clause (6) has been referred to. It says that the President or the Governor shall make available to the Election Commisson such staff as may be necessary. That does not mean he is going to choose every officer personally. This particlar clause has to be harmonised with other Artcles in the Constituiton. Law and order is a State subject. The Chief Election Commissioner cannot say as to where the Central forces should be deployed so long as you have a Government there.

SHRI JAGMOHAN (Nominated): Will you yeild for a minute? The point which has to be considered is what is the machinery available with the Chief Election Commissioner to determine whether X is suitable or not? Is he going to all the States to determine who is a suitable officer and who is not? What is the machinery available? Has to depend upon the Governor and the President. He has to depend upon the State Government . He has no machinery at all. I do not know how he has come to the judgement that such and such person is suitable and such and such person is not suitable. If anything comes to his notice, at the most he can say that X is not sutable. But he cannot go and say "unless I am totally satisfied..." Is he going to see the character roll of all these thousands of Officers?

SHRI S. JAIPAL REDDY: Now, Mr. Seshan behaves as though he has been an angel or who dropped like manna from heaven. Don't we know how he was appointed? Don't we know how he functioned as Defence Secretary? We know how he functioned as Cabinet Secretary? The point is that his fight against the Government of India does not appear to be real. It appears to be stage-managed, collusive and false. Look at the date— December 18 — he fixed. Was this the most propitious date? How did he arrive at this date? What would happen to elections in the four States? And if the elections are not held, what would happen to the Constitution? The Constitution could be trampled upon, but the Chief Election Commissioner would be alive and kicking.

I am surprised at the pathetic approach of the Government. (Interruptions). Members I have referred to need to have a fresh look at the entire functioning of the Election Commission. I endorsed the view. I say that the Chief Election Commissioner should not be appointed by the Government. He could be appointed in consultation with say with the Vice-President of India, the Speaker of the Lok Sabha and the Leader of the Opposition etc. If the Chairman of the Press Council, which is a toothless body, is chosen in consultation with such dignitaries how can this man be appointed only by the President, — that is the Government? The President, of course, is the same as the Government. Therefore, if we are having a fresh look at this Article, we must see that the Chief Election Commissioner in he first place is properly selected. Secondly, the Electon Commssion cannot be a Chief Election Commissioner alone. It has to be a multi-member body. We will have to redefine the functions of various members. Be that as it may, if the Congress (I) is truly incensed, as it wants to convey, then they must get ready for an impeachment motion against Mr. Seshen. It is high time that we got rid of this

tinpot dictator, who is running amuck in his coutry.

THE DEPUTY CHAIRMAN: Mr. M. C. Bhandare.

SHRI SUKOMAL SEN: Madam,..

THE DEPUTY CHAIRMAN: I will permit you, Mr. Sen. I have got your name with me. I am going according to the list which has been prepared, according to the names given to the Secretariat. We have some procenture.

SHRI MURLIDHAR CHANDRAKANT BHANDARE (Maharashtra): Madam Deputy Chairman, when I rise to speak on this debate, I am very conscious of the fact that the office of the Chief Election Commissioner is a very important and independent Constitutional office. Therefore, I am most reluctant to drag that office into anyunecessary or unseemly controversy. But that doesn't mean that we can shut our eyes to the reality. In fact, when last evening I learnt for the first time biennial elections to Rajya Sabha and that even a bye-election to our House, from Maharashtra was postponed by the Election Commission till December, I was totally aghast... (*Interruptions*) I did not know how elections to our House from West Bengal or Gujarat have anything to do with the controversy which this gentlemen was trying to raise with the Central Government. I am really amused and I am not surprised that some of the Opposition Members, particularly Mr. Upendra should utilise this as an occasion to say something aganst the Government. But that is his old usual style... (*Interruptions*). I do not think under our Constitution anybody can be a despo much less a benevolent despot. Now, I will give you one instance. Elections to the Rajya Sabha are held... (*Interruptions*)... Now, will you please keep quiet? I dont't think I have done anything to provoke my Hon'ble friend, Mr. Prakash Ambedkar. You give him a chance, I will sit down. What I am trying to say is that in elections to Rajya Sabha, the electors are the Legislators themselves. The Returning Officers are from the top officers of the Legislatures, just as for the Presidential election and for the Vice-Presidential election, we have the Secretaries-General here as Returning Officers. They are not the staff of the executive. Yet, I can't understand how in a controversy like this he goes on to step the elections to our House. I cant imagine six seats from West Bengal or three or four seats from Gujarat or even a lone seat from Maharasntra not being represented in this House in this monsoon session and since if elections are postponed till the 18th of December it means a good part of the winter session also. If this is ... (*Interruptions*)...

SHRI P. UPENDRA: Even vacancies in the nominated category to this House have not been filled up because of the indecision of your Prime Minister.

SHRI MURLIDHAR CHANDRAKANT BHANDARE: I am on the democratic process. I don't think that the Chief Election Commissioner has realised the gravity of his unconstitutional action. I join the hon. Member, Mr. S. Jaipal Reddy in saying that no Constiutional authority has a right to postpone all elecions. I cannot understand it. And I still do not concede this point of an indefinite postponement of any elections by the Chief Election Commissioner. I will give you one illustration. If this authority is conceded as a general rule it will be possible for the Chief Election Commsssioner to postpone all the elections in the North while holding elections in East, West and South so that you have a majority and override the Constituional provisions, which require the House to be constituted within a period of six months after its dissolution and run the country without representation from the entire north. The cosequences are too grave. Therefore, I am not here to take sides. I am not here to condemn. I think this raises one of the fundamental issues and such power should be denied to any authority. We are a wonderland of democracy. There are 50 crores of voters on our volers' list. We have been very successful, by and large-excepting a few

aberrations here and therein having free and fair elections. I think all this unnecessarily brings the country into disrepute for nothing, showing as if we do not have free and fair elections in our country. Therefore, I think he should be immediately prevailed upon to have those elections, to rescind his order and to continue with those elections. Look at the elections to the Legislative Council of Maharashtra. In the entire electorate, there are less than 100 voters and there is no question of law and order. We, all of us here, have amended section 58A of the Representation of People's Act providing for countermanding when there have been specific cases of law and order, booth-capturing and so on and so forth. Some immediate solution must be found out to see that the power does not vest in a single individual. Power corrupts and absolute power corrupts absolutely. I think this is not a matter to score some debating point. It is a point of substance to see that democracy in our country not only runs but it runs effectively, that representatives of people are elected in good time and elections to Meerut, Patna and other places are not postponed indefinitely as was done in the past. I would request that we should, at this point of cles. In my opinion, none of these articles. In my opinion, none of these articles and none of the judgements of the Supreme Court gives the authority which is claimed by the Chief Election Commissioner.

THE DEPUTY CHAIRMAN: Mr. Swaminathan. Now, I have, apart from Mr. Swaminathan, eight more speakers.

SHRI G. SWAMINATHAN: Madam, I will conclude in four or five minutes. Before 1.30 p.m. I will conclude.

Yesterday, when I was coming to Delhi to attend the Session.....

SHRI SUBRAMANIAN SWAMY: Seshan?

SHRI G. SWAMINATHAN: Not Seshan; to attend the Rajya Sabha Session.

THE DEPUTY CHAIRMAN: This Session is devoted to Mr. Seshan.

SHRI G. SWAMINATHAN: Mr. Subramanian Swamy is always thinking of Mr. Seshan because he is such a close friend of his and I have no doubt why he was supporting Mr. Seshan. When I was coming to Delhi I read in the newspapers that the elections to Palani and Ranipet constituencies have been postponed by the Election Commission. I was not surprised by this because I had been anticipating that elections would be postponed.

SHRI SUBRAMANIAN SWAMY: ...st have been happy.

SHRI G. SWAMINATHAN: I was not happy. But Mr. Subramanian Swamy and the Congress people must have been hapyy because they would have lost deposits if there had been elections. There was a motive for postponing the elections as far as Tamil Nadu is concerned because this is he first time that Congress contests an election alone and they would have lost deposits. And, that would not have lent a big credibility to the Prime Minister... (*Interruptions*). In any election anywhere in India, most probably, he will lose. He would not have been very happy as the Prime Minister. I was not surprised. I had discussions with the Hon'ble Chief Minister of Tamil Nadu a few days ago.

SHRI V. GOPALSAMY: Could you get an appointment with her?

SHRI G. SWAMINATHAN: I always get an appointment. There is no difficulty for me to get an appointment.

The hon. Chief Minister of Tamil Nadu...

SHRI SUBRAMANIAN SWAMY: Puratchi Thalaivi.

SHRI G. SWAMINATHAN: Puratchi Thalaivi, hon. Chief Minister of Tamil Nadu was talking to me about her election tour. I told her that the election migh not be conducted. I told her it might be postponed. I said there might not be any election for Palani Perunthurai and Ranipet. She was surprised. She said, "Already the dates have been announced. How can the election be postponed?" Even two months ago,

[Shri G. Swaminathan]

by May, when they had postponed it to 19th August, then also, I happened to hear from some of the friends of Mr. Sheshan who also come from Tamil Nadu —we have some mutual friends—that it might be postponed to 19th August. They said they were sure that it would be postponed further. That was the information I got two or three months ago. I told her that that was the information I got. She went to Ranipet. She was on a whirl-wind tour of the whole of the election constituencies. Ten minutes after she landed at Ranipet, she was informed that the election had been postponed. I was not surprised. She also issued a statement there to say that the election has been postponed because the Government of India, the Central Government, does not want an election at the present moment in Tamil Nadu. That is the reason why they have postponed the elections through Mr. Seshan and Mr. Seshan has been trying to find out many reasons to postpone the elections, including a law and order problem. On her part she has already written to the Union Government that the Tamil Nadu Government had already asked for seven companies of the Central Reserve Police, perhaps, Mr. Seshan thought that the State will refuse CRPF and that would be a consequence for postponing all the elections in the State. Having understood Seshan and also the Government of India, we had already asked for the central force and then naturally, he had no cause to say that there is a law and order problem. There had been no handle for him to postpone the elections this time. Consequently, she issued a statement that the election had been postponed by Mr. Seshan mainly because of the nexus between the Government of India and Mr. Seshan.

Who will be benefited by postponing the election? The Government of India will be benefited by postponing the election. If there is any election anywhere in India, most probably, the Government of India, the Prme Minister and the Congress party may not be very happy regarding the results concerned and consequently, they have postponed it. My personal feeling is that now they are trying to find out a reason of a constitutional crisis. It has been said that letters have been written by Election Commission to the Cabinet Secretary and the latter says that law and order is a State subject. About this subject when we had been speaking here when the Centre was sending forces to Uttar Pradesh and other places, they had not been contending like that at that time and now they say that law and order being a State subject; the Election Commission cannot direct the Centre to send the forces.

As it has been very ably said by another hon. Member, and I myself was thinking about the same how can Mr. Seshan know about the good and bad officers—the officers who can be impartial and the officers who cannot be impartial —because Mr. Seshan does not have a machinery, as it has already been said by Mr. Jagmohan, and he may not know many officers in Tamil Nadu. He might have known somebody when he was Collector of Madurai or when he was there. But *suo motu* he cannot say that these officers will not conduct the election properly. He does not have the machinery. It will be a subjective feeling which cannot be assessed by anybody else and any reason selected by Seshan, cannot be the only person who will be the right kind of person and another person who has been selected by the State Government cannot be otherwise. It cannot be said that he is a bad kind of person because he was selected by a State Government. What is the criteria by which the Election Commission is going to find out about the persons is also very questionable.

In conclusion, I want to say only one thing. Regarding this matter we don't believe that there is a constitutional fight between the Government of India and Mr. Seshan. Mr. Subramanian Swamy is a close friend of Mr. Seshan. We know the problems that he has been creating in Tamil Nadu. He is also, close friend of our Prime Minister. He has been creating havoc in Tamil Nadu by coming there frequently. I would request him not to come there too often. He should concentrates his

energy in Parliament at Delhi. Now, Mr. Subramanian Swamy is trying to have a brief for Mr. Seshan against the Government of India and the Prime Minister. I am one who does not believe that Mr. Subramanian Swamy will be carrying a brief for Mr. Seshan against the Prime Minister because I know his nexus with the Prime Minister. I would say that this is a point of collusion, as it has been already said, between the Government of India, the Prime Minister and Mr. Seshan to avoid all elections, including the elections in the four northern States where they fear that they may lose and the credibility of the Prime Minister may be lost. This is my personal feeling. Perhaps, some of the Congress Members may be genuinely taking up the matter against Mr. Seshan but behind the back, there is a big drama as we could see and as our friends already said. It is a drama enacted by the Prime Minister and Mr. Seshan to postpone the whole elections and it is a shadow fighting. That is what they are doing and I don't think that there is a constitutional crisis by Mr. Seshan. I personally feel that mainly because they wanted to postpone elections in Tamil Nadu and since they had no handle to postpone it, they have enacted this drama to postpone the election in Tamil Nadu and incidentally, all elections in the country till 18th of December so that defeat in the election in the intervening period may not damage the prestige of the Prime Minister. I know about some of the Ministers in the Congress(I) because for a long time, I had been meeting Mr. Rajiv Gandhi. I don't want to name them. One of them is from Maharashtra and another is from West Bengal. They had never been friends of the present Prime Minister or the previous Prime Minister. The present Prime Minister may not be very much aggrieved that they are not able to be elected, to their respective positions. Maybe, there is something behind this drama and I don't believe in this crisis and I stand by the statement of my Chief Minister that it is a collusion between the Government of India and the Election Commission to postpone the elections in Tamil Nadu. Thank you.

THE DEPUTY CHAIRMAN: I have got eight names. After lunch we will continue... (*Interruptions*)... Your name is there, Mr. Bommai. We will have it after lunch.

SHRI SOMAPPA R. BOMMAI: Thank you, Madam.

THE DEPUTY CHAIRMAN: The House is adjourned for lunch till 2.30 P.M.

The House then adjourned for lunch at thirty-six minutes past one of the clock.

The House reassembled after lunch at thirty-three minutes past two of the clock. **The Vice-Chairman (Shri MD. Salim)** in the Chair.

RE. POSTPONEMENT OF ELECTIONS BY THE CHIEF ELECTION COMMISSIONER—Contd.

SHRI SATYA PRAKASH MALAVIYA: Mr. Vice-Chairman, Sir, I read the concluding portion of the letter which Mr. Seshan has written to the Government that he is stopping work and he has also stated that all the elections will have to be deferred to December. By one stroke of the pen he deferred 31 elections, three to the Lok Sabha, nine to the Rajya Sabha, two to the State Councils and seventeen to different State Assemblies. He says that—

> "Accordingly till such time as the present deadlock, which is solely the making of the Government of India, is resolved, the Commission does not find itself in a position to carry out its constitutional obligations in the manner envisaged by the makers of the Constitution, and has accordingly decided that all and every elections under its control, including biennial and bye-elections to the Council of States bye-elections to the State Legislative Councils, bye-elections to the House of the People and bye-elections to the State Legislative Assemblies, as have been announced or notified or are in progress, shall remain postponed until further orders."